



Southwest Ranches Town Council

REGULAR MEETING Agenda of February 13, 2025

Southwest Ranches Council Chambers
7:00 PM Thursday

13400 Griffin Road
Southwest Ranches, FL 33330

<u>Mayor</u> Steve Breitkreuz	<u>Town Council</u> Jim Allbritton Gary Jablonski David S. Kuczenski, Esq.	<u>Town Administrator</u> Russell C. Muniz, MBA, MPA	<u>Town Attorney</u> Keith M. Poliakoff, J.D.
<u>Vice Mayor</u> Bob Hartmann		<u>Town Financial Administrator</u> Emil C. Lopez, CPM	<u>Town Clerk</u> Debra M. Ruesga

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (954) 434-0008 for assistance no later than four days prior to the meeting.

1. **Call to Order/Roll Call**
2. **Pledge of Allegiance**

Presentations

3. **2025 Arbor Day Proclamation**
4. **Public Comment**

- All Speakers are limited to 3 minutes.
- Public Comment will last for 30 minutes.
- All comments must be on non-agenda items.
- All Speakers must fill out a request card prior to speaking.
- All Speakers must state first name, last name, and mailing address.
- Speakers will be called in the order the request cards were received.
- Request cards will only be received until the first five minutes of public comment have concluded.

5. **Board Reports**
6. **Council Member Comments**
7. **Legal Comments**
8. **Administration Comments**

Ordinance - 1st Reading

9. **AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, CLARIFYING ORDINANCE NO. 2024-002 BY AMENDING SECTION 085-070 OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE OF ORDINANCES PERTAINING TO THE REMOVAL OF ILLEGAL FILL; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE TOWN'S CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.**

Resolutions

10. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA CONCERNING THE BROWARD COUNTY MOBILITY ADVANCEMENT PROGRAM'S (MAP) SHERIDAN STREET CAPACITY EXPANSION PROJECT OPPOSING LIGHT POLLUTION, REQUESTING IMPLEMENTATION OF NOISE REDUCING MEASURES, AND REQUESTING THE REALLOCATION OF FUNDING FROM LIGHT POLES TO AN IMPROVED TURN LANES; AND PROVIDING FOR AN EFFECTIVE DATE.
11. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ADOPTING THE INVESTMENT POLICY IN SUBSTANTIALLY THE SAME FORM AS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
12. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A LEASE AGREEMENT AND A MAINTENANCE CONTRACT WITH TOSHIBA AMERICA BUSINESS SOLUTIONS, INC. FOR THREE (3) COPIER/PRINTER/SCANNERS; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

13. Adjournment

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

PROCLAMATION

WHEREAS, Arbor Day, is observed throughout the Nation and the world; and

WHEREAS, annually, the State of Florida celebrates Arbor Day on the third Friday in January; and

WHEREAS, annually, the United States of America celebrates Arbor Day on the last Friday in April; and

WHEREAS in accordance with the Policies and Goals of the Town of Southwest Ranches' Comprehensive Plan, Adopted May 8, 2003, the Town set forth measurable objectives for the protection and enhancement of critical ecological systems integral to South Florida's and the Town's natural environment, including the maintenance and improvement of Air Quality by increasing tree coverage in the Town and by meeting the standards to become recognized by the National Arbor Day Foundation as a "Tree City USA," and

WHEREAS, In 2007, Southwest Ranches was recognized as a Tree City USA, and

WHEREAS, Southwest Ranches has continued to meet all standards and requirements for continuing designation as Tree City USA, and will be recognized in 2025 for its nineteenth consecutive year, and

WHEREAS trees reduce the erosion of topsoil, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community

NOW, THEREFORE, BE IT PROCLAIMED BY the Town Council of the Town of Southwest Ranches that annually, the third Friday in January shall be recognized as Arbor Day in the Town of Southwest Ranches. Further the Council urges all citizens to celebrate Southwest Ranches and National Arbor Day, to support efforts to protect our tree resources, and to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 13th day of February, 2025

STEVE BREITKREUZ, MAYOR

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Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL
33330-2628
(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Steve Breitreuz, Mayor
Bob Hartmann, Vice Mayor
Jim Allbritton, Council Member
Gary Jablonski, Council Member
David S. Kuczenski, Esq., Council Member

Russell C. Muniz, MBA, MPA, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Debra M. Ruesga, Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitreuz and Town Council
VIA: Russell C. Muñiz, Town Administrator
FROM: Keith Poliakoff, Town Attorney
DATE: 2/13/2025
SUBJECT: Amending Fill Permit Ordinance

Recommendation

Town Council consideration to approve this ordinance on first reading.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

A. Sound Governance

D. Improved Infrastructure

Background

The Sec. 085-070 is to establish standards that govern the allowable amount of fill that can be placed upon any portion of a lot. Unpermitted fill of properties destroys wetlands and changes the topography of properties deleteriously impacting neighboring properties and the Town's drainage system.

The Town's policy has always been that the unpermitted placement of Level 2 or Level 3 fill requires complete removal before a permit to place fill back onto the property can be considered by the Town and while this policy was sought to be codified within Section 085-070 of the Town's Unified Land Development Code, the language is slightly ambiguous, so the Town desires to clarify same.

The regulation of fill is a permitted police power and is necessary and proper to protect the health, safety, and welfare of the Town and its residents.

Fiscal Impact/Analysis

Staff Contact:

Keith Poliakoff, Town Attorney
Russell Muniz, Town Administrator

ATTACHMENTS:

Description	Upload Date	Type
Business Impact Statement	2/7/2025	Backup Material
Ordinance First Reading - TA Approved	2/7/2025	Ordinance

Town of Southwest Ranches Business Impact Estimate Form



*This Business Impact Estimate Form is provided in accordance with **Section 166.041(4), Florida Statutes** and must be included in the agenda item backup for each proposed ordinance on first reading. A Business Impact Estimate Form must be prepared and posted on the Town's website for each ordinance by the date that the notice of the proposed ordinance is published, regardless of whether the ordinance is exempted under Section A below. This Business Impact Estimate Form may be revised following its initial posting.*

Title of proposed ordinance:

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, CLARIFYING ORDINANCE NO. 2024-002 BY AMENDING SECTION 085-070 OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE OF ORDINANCES PERTAINING TO THE REMOVAL OF ILLEGAL FILL; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE TOWN'S CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

The provisions contained in this Section A constitute exemptions as provided in Section 166.041(4)(c). If one or more boxes are checked in Section A below, a business impact estimate is not required by state law for the proposed ordinance.

Section A

- The proposed ordinance is required for compliance with Federal or State law or regulation;
 - The proposed ordinance relates to the issuance or refinancing of debt;
 - The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
 - The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the Town;
 - The proposed ordinance is an emergency ordinance;
 - The proposed ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
- Development orders and development permits, as defined in s. 163.3164, and development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
 - Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the Town;
 - Sections 190.005 and 190.046;
 - Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

If an exemption in Section A is applicable, then only Section A needs to be completed. If there is no exemption in Section A, Section B must be completed.

Section B This section with the business impact estimate must be completed if the proposed ordinance does not meet any of the exemptions in Section A.

1. A summary of the proposed ordinance which must include a statement of the public purpose (e.g., public health, safety, morals and welfare).

Unpermitted fill of properties destroys wetlands, and changes the topography of properties deleteriously impacting neighboring properties and the Town's drainage system.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur.

Direct economic impact cannot be determined as the cost to remove fill only applies to violators of the Town's fill permit requirement. Further, the cost to remove fill will depend primarily on how much material was brought on site which cannot be determined in advance.

(b) Any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible; and

Property owners/businesses will be responsible for the costs to remove the fill

(c) An estimate of the Town's regulatory costs, including an estimate of revenues from any new charges or fees to cover such costs.

Also nearly impossible to estimate as regulatory costs only into play when violations occur. Costs would include oversight by Code, Engineering, and Administration.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

All property owners who violate the provisions of the fill permit ordinance.

4. Additional information/methodology for preparation, if any:

1 Sec. 085-070. - Maximum allowable fill elevations.

2

3
4 (G) [*Illegal Fill Prohibited.*] No person shall bring illegal fill onto a portion of a
5 lot. Failure of any person, on their own volition, to remove such illegal fill
6 within five (5) business days after receipt of a Notice of Violation shall
7 constitute a violation of this article. Even if the fill has been removed, such
8 person shall still be required to resolve wetland impacts, if any, from the
9 illegal fill installation, or shall be subject to a Notice of Violation relating to
10 same. Level One permits shall be exempt from this section.

11 (H) [*Abatement of violations relating to illegal land fill.*] As it specifically relates
12 to Level Two and Level Three permits, to bring the property into compliance
13 with this article, all fill shall be removed from the property. The Town shall
14 be prohibited from issuing a permit to bring fill back onto the property until
15 compliance has been achieved. If the any illegal land fill violation is not
16 corrected within twelve (12) months following notice, the Town may, but shall
17 not be required to, correct the violation by clearing the property or causing it
18 to be cleared, removing or causing the removal of the illegal fill or conducting
19 such other activity necessary to bring the property into compliance with this
20 article. The Town shall send notice by mail to the responsible party specifying
21 the costs of removal, administrative costs, including the cost of prosecution,
22 and requesting payment within thirty (30) days of the mailing.

23 * * *

24 **Section 3: Inclusion.** The Town Clerk shall cause this Ordinance to be included
25 as part of the Town's Code of Ordinances.

26 **Section 4: Conflict.** That all Sections or parts of Sections of the Code of
27 Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict
28 are hereby repealed to the extent of such conflict.

29 **Section 5: Severability.** If any one or more of the provisions of this Ordinance
30 shall be held contrary to any express provision of law or contrary to the policy of express
31 law, though not expressly prohibited or against public policy, or shall for any reason
32 whatsoever be held invalid, then such provision shall be null and void and shall be
33 separate from the remaining provisions, and shall in no way affect the validity of all other
34 provisions of this Ordinance.

1 **Section 6: Effective Date.** This Ordinance shall be effective immediately upon
2 its adoption.

3 **PASSED ON FIRST READING** this ___ day of February, 2025 on a motion
4 made by _____ and seconded by _____.

5 **PASSED AND ADOPTED ON SECOND READING** this ___ day of _____,
6 2025, on a motion made by _____ and seconded by _____.

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8 **[Signatures on the Following Page]**
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Breitkreuz _____
Hartmann _____
Allbritton _____
Jablonski _____
Kuczenski _____

Ayes _____
Nays _____
Absent _____
Abstaining _____

Steve Breitkreuz, Mayor

Attest:

Debra M Ruesga, Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff, J.D., Town Attorney
1001.017.2025



Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL
33330-2628
(954) 434-0008 Town Hall
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Gary Jablonski, Council Member
David S. Kuczenski, Esq., Council Member

Russell C. Muniz, MBA, MPA, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Debra M. Ruesga, Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitreuz and Town Council
VIA: Russell Muñiz, Town Administrator
FROM: Kathryn Sims, Deputy Town Administrator
DATE: 2/13/2025
SUBJECT: Resolution opposing and requesting certain aspects of the MAP Broward Sheridan Street Project

Recommendation

Town Council consideration for a motion to approve the resolution.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

D. Improved Infrastructure

Background

Broward County's Mobility Advancement Program (MAP Broward) is responsible for the improvement of transportation systems and includes numerous projects for such throughout Broward County. A project that directly impacts the Town of Southwest Ranches is the Sheridan Street Capacity Expansion Project, with the goal of increasing street lanes from four (4) to six (6), creating sidewalks and bicycle lanes, improving drainage, signalization, signage, pavement marking, landscaping and irrigation on Sheridan Street from Flamingo Road to Southwest 148 Avenue.

Fiscal Impact/Analysis

There is no fiscal impact.

Currently in the design phase, the Sheridan Street Capacity Expansion Project includes potential concerns for the Town of Southwest Ranches such as light pollution caused by proposed light poles on the north side of Sheridan Street as well as traffic noise from the increase in lanes.

Council Member Kuczenski requested this resolution to be discussed and approved, opposing the installation of light poles on the north side of westbound Sheridan Street that will cause light pollution for residents along Old Sheridan Street, formally requesting the implementation of noise reducing measures along westbound Sheridan Street, and formally requesting the reallocation of funds for sidewalks along the northside of Sheridan Street to instead fund the improvement of the northbound turn lanes onto Flamingo Road from eastbound Sheridan Street.

Staff Contact:

Russell Muñiz, Town Administrator
Kathryn Sims, Deputy Town Administrator

ATTACHMENTS:

Description	Upload Date	Type
Resolution - TA Approved	2/7/2025	Resolution

RESOLUTION NO. 2025-xxx

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA CONCERNING THE BROWARD COUNTY MOBILITY ADVANCEMENT PROGRAM'S (MAP) SHERIDAN STREET CAPACITY EXPANSION PROJECT; OPPOSING LIGHT POLLUTION; REQUESTING IMPLEMENTATION OF NOISE REDUCTION MEASURES; REQUESTING THE REALLOCATION OF FUNDING FROM LIGHT POLES TO AN IMPROVED TURN LANES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Broward County's Mobility Advancement Program (MAP Broward), funded by the Penny Transportation Tax, is responsible for the improvement of transportation systems throughout Broward County; and

WHEREAS, the Sheridan Street Capacity Expansion Project, seeks to increase the street lanes from four (4) to six (6), creating sidewalks and bicycle lanes, improving drainage, signalization, signage, pavement marking, landscaping and irrigation on Sheridan Street from Flamingo Road to Southwest 148 Avenue; and

WHEREAS, currently in the design phase, the Sheridan Street Capacity Expansion Project includes potential concerns for the Town of Southwest Ranches such as light pollution caused by proposed light poles on the north side of Sheridan Street as well as traffic noise from the increase in lanes; and

WHEREAS, the Town Council of the Town of Southwest Ranches hereby formally opposes the installation of light poles on the north side of westbound Sheridan Street that will cause light pollution for residents along Old Sheridan Street; and

WHEREAS, the Town Council requests the implementation of noise reducing measures along westbound Sheridan Street; and

WHEREAS, the Town Council formerly requests the reallocation of funds for sidewalks along the northside of Sheridan Street to fund the improvement of the northbound turn lanes onto Flamingo Road from eastbound Sheridan Street;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: The recitals above are true and correct and are incorporated herein by reference.

Section 2: The Town Council hereby formally opposes the installation of light poles on the north side of westbound Sheridan Street from Flamingo Road to Southwest

148th Avenue which will cause light pollution, spilling over and negatively affecting the residents and property owners on Old Sheridan Street.

Section 3: The Town Council hereby formally requests the implementation of noise reducing measures along the north side of westbound Sheridan Street, to protect the residents and property owners on Old Sheridan Street from increased noise pollution caused by the widening of Sheridan Street.

Section 4: The Town Council hereby formally requests the reallocation of design, planning, and construction funds for a 10-foot sidewalk along the north side of Sheridan Street to fund the improvement of the left-hand turn lanes from eastbound Sheridan Street onto northbound Flamingo Road.

Section 5: The Town Council hereby formally requests that all reasonable efforts be made by MAP Broward to address the concerns as described in this Resolution during the design phase of the Sheridan Street Capacity Expansion Project.

Section 6: The Town Clerk is directed to send a copy of this Resolution to the appropriate staff at MAP Broward.

Section 7: This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 13th day of February, 2025, on a motion by _____ and seconded by _____.

Breitkreuz _____
Hartmann _____
Allbritton _____
Jablonski _____
Kuczenski _____

Ayes _____
Nays _____
Absent _____
Abstaining _____

[Signatures on Following Page]

Steve Breitkreuz, Mayor

ATTEST:

Debra M. Ruesga, CMC, Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff, J.D., Town Attorney
1001.017.2025

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Debra M. Ruesga, Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitreuz and Town Council
VIA: Russell Muñiz, Town Administrator
FROM: Emil C. Lopez, Town Financial Administrator
DATE: 2/13/2025
SUBJECT: Investment Policy

Recommendation

It is recommended that the Town Council approves the accompanying resolution adopting the Town's investment policy.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

- A. Sound Governance
- B. Enhanced Resource Management

Background

In direct response to the investment crisis and reported investment losses by some local governments in Florida, the Florida Legislature passed and adopted in 1999, the requirements for investment policies known as the "Investment of Local Government Surplus Funds Act" and codified in Section 218.40, Florida Statutes (1999). Accordingly, Section 218.415, Florida Statutes, requires a local government to adopt written investment policies or to elect to proceed under Subsection 17 (218.415) which sets forth alternative investment guidelines.

On August 8th, 2000, the Town Council adopted resolution 2000-06 to utilize the alternative investment guidelines specified in Section 218.415(17), Florida Statutes. In the Town following these alternative investment guidelines (17), we have identified that it is in the best interest to

the Town to establish a written policy as it will provide an increased number of investments options while maintaining the highest priority on the safety of principal and liquidity of funds.

Fiscal Impact/Analysis

Adoption of this policy does not represent a cost to the Town. As per Section 218.401, Florida Statutes, it is the intent of this policy the maximization of net interest earnings on invested surplus by the Town of Southwest Ranches, based on the principles of investor protection, mandated transparency, and proper governance, with the goal of reducing the need of imposing additional taxes.

Staff Contact:

Emil C. Lopez, Town Financial Administrator

ATTACHMENTS:

Description	Upload Date	Type
Resolution - TA Approved	2/6/2025	Resolution
Exhibit "A" Investment Policy	1/17/2025	Exhibit
Attachment A - Investment Pool/Fund Questionnaire	1/15/2025	Exhibit

RESOLUTION NO. 2025-XXX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ADOPTING A WRITTEN INVESTMENT POLICY TO ESTABLISH A METHODOLOGY TO INVEST SURPLUS FUNDS OF THE TOWN OF SOUTHWEST RANCHES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 218.415, Florida Statutes require local governments to adopt a written investment policy or to elect to proceed under the alternative investment guidelines contained in Section 218.415(17); and

WHEREAS, the Town of Southwest Ranches adopted Resolution 2000-06 to utilize the alternative investment guidelines specified in Section 218.415(17); and

WHEREAS, the Town Council has determined that it is in the best interest of the Town to establish a written investment policy to govern the safeguarding of Town's funds, ensure a competitive investment return, and regulate all surplus cash and investments controlled by the Town; and

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southwest Ranches; Florida as follows:

Section 1: Recitals. The above-referenced recitals are true and correct and are incorporated herein by reference.

Section 2: Adoption. The Town Council hereby approves the adoption of the Town of Southwest Ranches investment policy attached hereto as "Exhibit A" and authorizes the Town Administrator and Town Financial Administrator to implement these changes as needed.

Section 3: Severability. If any one or more provisions of this Resolution shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be separate from the remaining provisions and shall in no way affect the validity of all other provisions of this Resolution.

Section 4: Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest

Ranches, Florida, this ___ day of February 2025, on a motion by

_____ and seconded by _____

Breitkreuz _____
Allbritton _____
Jablonski _____
Hartmann _____
Kuczenski _____

Ayes _____
Nays _____
Absent _____

Steve Breitkreuz, Mayor

ATTEST:

Debra Ruesga, Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff, J.D., Town Attorney
1001.005.2025



INVESTMENT POLICY FOR

THE

TOWN OF SOUTHWEST RANCHES

Adopted on January XX, 20XX

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I. PURPOSE

The purpose of this Investment Policy (hereinafter “Policy”) is to set forth the investment objectives and parameters for the management of public funds of the Town of Southwest Ranches (hereinafter “Town”). This Policy is designed to safeguard the Town’s funds, the availability of operating and capital funds when needed, and an investment return competitive with comparable funds and financial market indices.

II. SCOPE

In accordance with Section 218.415, Florida Statutes, this Policy applies to all cash and investments held or controlled by the Town and shall be identified as “general operating funds” of the Town with the exception of funds needed to meet current expenses, funds related to the issuance of debt where there are other existing policies or indentures in effect for such funds, and any future revenues, which have statutory investment requirements conflicting with this Policy and funds held by state agencies (e.g., Department of Revenue). Additionally, this Policy does not apply to pension funds such as, the employees’ pension/retirement funds. Escrow funds held to pay and defease refunded bonds shall be invested in accordance with the terms of the escrow deposit agreement. Cash and investment balances as defined in this section are entirely known as “available fund”.

III. INVESTMENT OBJECTIVES

Safety of Principal

The foremost objective of this investment policy is the safety of the principal of those funds within the portfolios. Investment transactions shall seek to keep capital losses at a minimum, whether they are from securities defaults or erosion of market value. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

Maintenance of Liquidity

The portfolios shall be managed in such a manner that funds are available to meet reasonably anticipated cash flow requirements in an orderly manner. Periodic cash flow analyses will be completed to ensure that the portfolios are positioned to provide sufficient liquidity.

Return on Investment

Investment portfolios shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, considering the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above.

Return is attempted through active management where the Town Financial Administrator, designee, and investment advisor (hereinafter “investment team”) utilizes a total return strategy (which includes both realized and unrealized gains and losses in the portfolio). This total return strategy seeks to increase the value of the portfolio through reinvestment of income and capital gains. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Despite this, the “investment team” may trade to recognize a loss from time to time to achieve a perceived relative value based

on its potential to enhance the total return of the portfolio.

IV. DELEGATION OF AUTHORITY

In accordance with the Town’s charter (Section 3.11), the responsibility for providing oversight in regard to the management of the investment program resides with the Town Financial Administrator. The Town Financial Administrator or designee will be responsible for transferring the appropriate funds to effect investment transactions, in accordance with the investment policy and/or as recommended by the Town’s investment advisor if one is contractually engaged, for the investment program. No person may engage in an investment transaction except as stated in the internal controls section of the policy. In employing an investment advisor or firm to manage the Town’s investment portfolio or a portion of its available fund, the investment advisor or firm must be registered under the Investment Adviser’s Act of 1940.

V. STANDARDS OF PRUDENCE

The standard of prudence to be used by the investment team shall be the “Prudent Person” standard and shall be applied in the context of managing the overall investment program. The Town Financial Administrator or designee (hereinafter “investment officers”) acting in accordance with written procedures and this Policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectation are reported to the Town Council in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this Policy. The “Prudent Person” rule states the following:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment. 218.415(4) F.S.

While the standard of prudence to be used by investment officers is the Prudent Person standard, any person or firm hired or retained to invest, monitor, or advise concerning these assets shall be held to the higher standard of “Prudent Expert”. The standard shall be that in investing and reinvesting moneys and in acquiring, retaining, managing, and disposing of investments of these funds, the contractor shall exercise: the judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the funds, so as to minimize the risk, considering the probable income as well as the probable safety of their capital.

VI. ETHICS & CONFLICTS OF INTEREST

Investment officers involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Also, the above personnel involved in the investment process shall disclose to the Town Council any material financial interests in financial institutions that conduct business with the Town, and they shall further disclose any material personal financial/investment positions that could be related to the performance of the Town’s investment program. The investment team shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity.

VII. INTERNAL CONTROLS & INVESTMENT PROCEDURES

The Town Financial Administrator shall establish a system of internal controls and operational procedures that are in writing and made a part of the Town's finances operational procedures. The internal controls should be designed to prevent losses of funds, which might arise from fraud, employee error, and misrepresentation by third parties, or imprudent actions by employees. The written procedures should include reference to safekeeping, repurchase agreements, separation of transaction authority from accounting and recordkeeping, wire transfer agreements, banking service contracts, collateral/depository agreements, and "delivery-vs-payment" procedures. No person may engage in an investment transaction except as authorized under the terms of this Policy.

Independent auditors, as a normal part of the annual financial audit to the Town, shall conduct a review of the system of internal controls to ensure compliance with policies and procedures.

VIII. CONTINUING EDUCATION

The Town Financial Administrator and any other personnel responsible for overseeing investments or designee shall annually complete 8 hours of continuing education in subjects or course of study related to investment practices and products pursuant to section 218.415(14) F.S.

IX. AUTHORIZED INVESTMENT INSTITUTIONS & DEALERS

The investment team shall only purchase securities from the following financial and investment institutions:

- A. Certificates of deposit, money market accounts, and savings accounts.
These investments may only be purchased from public depositories qualified by the Treasurer of the State of Florida, in accordance with Chapter 280, Florida Statutes.
- B. Overnight Repurchase Agreement.
Collateral for the Town's "Sweep Accounts" shall be held at Town's depository bank which must be a State Qualified Public Depository (QPD).
- C. Qualified Institutions for all other Investments.
 1. Primary dealers as defined by the Federal Reserve Bank of New York; or
 2. Large regional and money market center banks ranked 1-10 in total capital nationally as rated by the Federal Deposit Insurance Corporation, and Qualified Public Depositories, as defined in Section 280.02, Florida Statutes; or
 3. Smaller regional broker-dealers based in the State of Florida meeting the following criteria:
 - a) Must comply with the SEC mandated Minimum Net Capital Rule 15c3-1;
 - b) Must provide their most recent Financial and Operational Combined Uniform Single (FOCUS) report showing a minimum net capital of \$10 million on either line 3750 or line 3760 of the Report;
 - c) Must have been in continuous business operations for the five (5) years preceding the date of application to be a broker-dealer that is a qualified institution; and
 - d) If it is a banking institution, it must be a Qualified Public Depository, as defined in Section 280.02, Florida Statutes.

Qualified Institutions must have the ability to confirm trades through an electronic trading platform and must complete a broker agreement prior to initial trade. An annual review of - dealers will be conducted at the end of each fiscal year. A list containing a maximum of fifteen (15) approved broker-dealers selected on creditworthiness will be maintained annually.

The Town's contracted investment advisor shall utilize and maintain its own list of approved primary and non- primary dealers.

X. MATURITY & LIQUITY REQUIREMENTS

To the extent possible, investment maturities will be matched with known cash needs and anticipated cash flow requirements.

A. Maturity Guidelines:

Securities purchased by or on behalf of the Town shall have a final maturity of five and a half years (5.5) or less from the date of settlement. The maximum effective duration of the entire portfolio shall be three (3) years. The maturities of the underlying securities of a repurchase agreement will follow the requirements of the Securities Industry and Financial Markets Association (SIFMA) Master Repurchase Agreement.

B. Liquidity Requirements:

The Town Financial Administrator or designee shall determine the approximate amount of funds required to meet the day-to-day expenditure needs of the Town. All funds in the depository bank(s) will be "swept" into a money market fund as necessary to maintain liquidity flexibility. The balance of the Town's funds will be available for investment according to the guidelines incorporated within this Policy.

XI. RISK & DIVERSIFICATION

Assets held shall be diversified to control risks resulting from overconcentration of assets in a specific maturity, issuer, instruments, dealer, or bank through which these instruments are bought and sold. The Town Financial Administrator shall determine diversification strategies within the established guidelines.

XII. MASTER REPURCHASE AGREEMENT

The Town Financial Administrator will require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the Securities Industry and Financial Markets Association (SIFMA) Master Repurchase Agreement. All repurchase agreement transactions will adhere to requirements of the SIFMA Master Repurchase Agreement.

XIII. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

After the "investment team" have determined the approximate maturity date based on cash flow needs and market conditions and have analyzed and selected one or more optimal types of investments, a minimum of three (3) qualified banks and/or approved broker/dealers must be contacted and asked to provide bids/offers on securities in question. Bids will be held in confidence until the bid deemed to best meet the investment objectives is determined and selected.

However, if obtaining bids/offers are not feasible and appropriate, securities may be purchased/sold utilizing the comparison to current market price method on an exception basis. Acceptable current market price providers include, but are not limited to:

- A. Tradeweb
- B. Bloomberg Information Systems
- C. Wall Street Journal or a comparable nationally recognized financial publication providing daily market pricing
- D. Daily market pricing provided by the Town’s custodian or their correspondent institutions

The “investment team” shall utilize the competitive bid process to select the securities to be purchased or sold. Selection by comparison to the current market price, as indicated above, shall only be utilized when, in judgment of the Town Financial Administrator or designee and the Town’s investment advisor(s), competitive bidding would inhibit the selection process.

Examples of when this method may be used include:

- A. When time constraints due to unusual circumstances preclude the use of the competitive bidding process.
- B. When no active market exists for the issue being traded due to the age or depth of the issue.
- C. When a security is unique to a single dealer, for example, a private placement.
- D. When the transaction involves new issues or issues in the “when issued” market.

Overnight sweep investment instruments will not be bid but may be placed with the Town’s depository bank relating to the demand account for which the investment instrument was purchased.

XIV. AUTHORIZED INVESTMENTS, INSTRUMENTS & PORTFOLIO COMPOSITION

Investments should be made subject to the cash flow needs and such cash flows are subject to revisions as market conditions and the Town’s needs change. The Town’s Financial Services Department is responsible for updating cash flow projections and expenditure projections over \$100,000 on a monthly basis. However, when the invested funds are needed in whole or in part for the purpose originally intended or for more optimal investments, the Town Financial Administrator may authorize the sale of the investment at the then-prevailing market price and place the proceeds into the proper account at the Town’s custodian.

The following are the investment requirements and allocation limits on security types, issuers, and maturities as established by the Town. Diversification strategies within the established guidelines shall be reviewed and revised periodically as necessary by the Town Financial Administrator. The Town Financial Administrator shall have the option to further restrict investment percentages from time to time based on market conditions, risk and diversification investment strategies. The percentage allocations requirements for investment types and issuers are calculated based on the original cost of each investment, at the time of purchase. Investments not listed in this Policy are prohibited. The following requirements do not apply to funds derived from the sale of debt.

Permitted Investments

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement ¹	Maximum Maturity
U.S. Treasury	100%	100%	N/A	3.50 Years
GNMA		40%		
Other U.S. Government Guaranteed (e.g. AID, GTC)		10%		
Federal Agency/GSE: FNMA, FHLMC, FHLB, FFCB*	100%	40% ³	N/A	3.50 Years
Corporates	50% ²	5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1, A-/A3 or equivalent)	3.50 Years
Municipals	25%	10%	Highest ST or Three Highest LT Rating Categories (SP-1/MIG 1, A-/A3, or equivalent)	3.50 Years
Agency Mortgage-Backed Securities (MBS)	30%	40% ³	N/A	3.50 Years Avg. Life ⁴
Asset-Backed Securities (ABS)	25%	10%	Highest ST or LT Rating (A-1+/P-1, AAA/Aaa, or equivalent)	3.50 Years Avg. Life ⁴
Non-Negotiable Collateralized Bank Deposits (CD) or Savings Accounts	50%	25% or None, if fully collateralized	Secured by the Florida Security for Public Deposits Act, Chapter 280, Florida Statutes. None, if fully collateralized.	1 Year
Commercial Paper (CP)	35% ²	10%	Highest ST Rating Category (A-1/P-1, or equivalent)	270 Days
Repurchase Agreements (Repo or RP)	20%	20%	Counterparty (or if the counterparty is not rated by an NRSRO, then the counterparty's parent) must be rated in the Highest ST Rating Category (A-1/P-1, or equivalent) If the counterparty is a Federal Reserve Bank, no rating is required	1 Year
Money Market Funds (MMFs)	50%	25%	Two Highest Fund Rating by all NRSROs who rate the fund (AAm/Aa-mf, or equivalent)	N/A
Intergovernmental Pools (LGIPs)	50% ⁵	50%	Highest Fund Quality and Volatility Rating Categories by all NRSROs who rate the LGIP, (AAAm/AAAf, S1, or equivalent)	N/A
Florida Local Government Surplus Funds Trust Funds ("Florida Prime" or "SBA")	75% ⁵	N/A	Highest Fund Rating by all NRSROs who rate the fund (AAAm/Aaa-mf, or equivalent)	N/A

Notes:

¹ Rating by at least one SEC-registered Nationally Recognized Statistical Rating Organization ("NRSRO"), unless otherwise noted. ST=Short-term; LT=Long-term.

² Maximum allocation to all corporate and bank credit instruments is 50% combined.

³ Maximum exposure to any Federal Agency, including the combined holdings of Agency debt and Agency MBS, is 40%.

⁴ The maturity limit for MBS and ABS is based on the expected average life at time of settlement, measured using Bloomberg or other industry standard methods.

⁵ The maximum exposure to Florida Prime and Intergovernmental Pools is a combined 75%.

* Federal National Mortgage Association (FNMA); Federal Home Loan Mortgage Corporation (FHLMC); Federal Home Loan Bank or its District Banks (FHLB); Federal Farm Credit Bank (FFCB).

- 1) **U.S. Treasury & Government Guaranteed** – U.S. Treasury obligations, and obligations the principal and interest of which are backed or guaranteed by the full faith and credit of the U.S. Government.
- 2) **Government National Mortgage Association (GNMA) Securities** – Also known as Ginnie Mae, these bonds are backed by the full faith and credit of the United States government.
- 3) **Federal Agency/GSE (government-sponsored enterprise)** – Debt obligations, participations or other instruments issued or fully guaranteed by any U.S. Federal agency, instrumentality or GSE.
- 4) **Corporates** – U.S. dollar denominated corporate notes, bonds or other debt obligations issued or guaranteed by a domestic or foreign corporation, financial institution, non-profit, or other entity.
- 5) **Municipals** – Obligations, including both taxable and tax-exempt, issued or guaranteed by any State, territory or possession of the United States, political subdivision, public corporation, authority, agency board, instrumentality or other unit of local government of any State or territory.
- 6) **Agency Mortgage-Backed Securities** – Mortgage-backed securities (MBS), backed by residential, multi-family or commercial mortgages, that are issued or fully guaranteed as to principal and interest by a U.S. Federal agency or government sponsored enterprise, including but not limited to pass-throughs.
- 7) **Asset-Backed Securities** – Asset-backed securities (ABS) whose underlying collateral consists of loans, leases or receivables, including but not limited to auto loans/leases, credit card receivables, or equipment loans/leases.
- 8) **Non-Negotiable Certificate of Deposit and Savings Accounts** – Non-negotiable interest-bearing time certificates of deposit, or savings accounts in banks organized under the laws of this state or in national banks organized under the laws of the United States and doing business in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, Florida Statutes.
- 9) **Commercial Paper** – U.S. dollar denominated commercial paper issued or guaranteed by a domestic or foreign corporation, company, financial institution, trust or other entity, including both unsecured debt and asset-backed programs.
- 10) **Repurchase Agreements** – Repurchase agreements (Repo or RP) that meet the following requirements:
 - a. Must be governed by a written SIFMA Master Repurchase Agreement which specifies securities eligible for purchase and resale, and which provides the unconditional right to liquidate the underlying securities should the Counterparty default or fail to provide full timely repayment.
 - b. Counterparty must be a Federal Reserve Bank, a Primary Dealer as designated by the Federal Reserve Bank of New York, or a Federal Reserve Bank.
 - c. Securities underlying repurchase agreements must be delivered to a third-party custodian under a written custodial agreement and may be of deliverable or tri-party form. Securities must be held in the City’s custodial account or in a separate account in the name of the City.
 - d. Acceptable underlying securities include only securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States, or U.S. Agency-backed mortgage related securities.

- e. Underlying securities must have an aggregate current market value of at least 102% (or 100% if the counterparty is a Federal Reserve Bank) of the purchase price plus current accrued price differential at the close of each business day.
- f. Final term of the agreement must be 1 year or less.

11) **Money Market Funds** – Shares in open-end and no-load money market mutual funds, provided such funds are registered under the Investment Company Act of 1940 and operate in accordance with Rule 2a- 7.

A thorough investigation of any money market fund is required prior to investing, and on an annual basis. Attachment A is a questionnaire that contains a list of questions to be answered prior to investing, that covers the major aspects of any investment pool/fund. A current prospectus must be obtained.

12) **Local Government Investment Pools** – State, local government or privately-sponsored investment pools that are authorized pursuant to state law.

A thorough investigation of any intergovernmental investment pool is required prior to investing, and on an annual basis. Attachment A is a questionnaire that contains a list of questions to be answered prior to investing, that covers the major aspects of any investment pool/fund. A current prospectus must be obtained.

13) **The Florida Local Government Surplus Funds Trust Funds (“Florida Prime” or “SBA - State Board of Administration”)** – A thorough investigation of the Florida Prime is required prior to investing, and on an annual basis. Attachment A is a questionnaire that contains a list of questions to be answered prior to investing, that covers the major aspects of any investment pool/fund. A current prospectus or portfolio report must be obtained.

XV. DERIVATIVES & REVERSE REPURCHASE AGREEMENTS

The Town may not invest in investment products that include the use of derivatives or in reverse repurchase agreements. A “derivative” is defined as a financial instrument the value of which depends on, or is derived from, the value of one or more underlying assets or indices or asset values. Agency mortgage-backed securities, including collateralized mortgage obligations, known as “CMO”, will not be considered a derivative product for purposes of investment provided that the investment meets all other criteria of this policy statement including the policy objectives of safety and liquidity.

XVI. PERFORMANCE MEASUREMENTS

In order to assist in the evaluation of the portfolios’ performance, the Town will use performance benchmarks for short-term and long-term portfolios. The use of benchmarks will allow the Town to measure its returns against other investors in the same markets.

- A. Investment performance of funds designated as short-term funds and other funds that must maintain a high degree of liquidity will be compared to the return on the S&P Rated GIP Index Government 30 Day Yield.
- B. The long-term investment portfolio shall be designed with the annual objective of meeting the return of the ICE BofA 1-3 Year U.S. Corporate & Government Index compared to the portfolio’s total rate of return. This index and maturity range approximates the permitted investment by this policy and will be utilized as a benchmark to the be compared to the portfolio’s total rate of return.

XVII. REPORTING

- A. The Town Financial Administrator will prepare as deemed necessary investment reports which include the listing of holdings in the portfolio at cost and market value for the Town Administrator. At least annually, the Town Financial Administrator, designee, or investment advisor shall prepare and submit an investment report to the Town Council. Schedules for the annual report should include but not limited to:
1. A listing of individual securities held at the end of the reporting period
 2. Percentage of available funds represented by each investment type
 3. Coupon, discount or earning rate
 4. Average life or duration and final maturity of all investments
 5. Par value, and market value
 6. Income earned

XVIII. THIRD-PARTY CUSTODIAL AGREEMENTS

Securities, with the exception of certificates of deposits, shall be held with a third-party custodian, and all securities purchased by, and all collateral obtained by the Town should be designated in the books and records of the custodian as an asset of the Town. The securities must be held in an account separate and apart from the assets of the financial institution. A third party custodian is defined as any bank depository chartered by the Federal Government, the State of Florida, or any other state or territory of the United States which has a branch or principal place of business in the State of Florida as defined in Section 658.12, Florida Statutes, or by a national association organized and existing under the laws of the United States which is authorized to accept and execute trusts and which is doing business in the State of Florida. Certificates of deposits will be placed in the custodian's safekeeping department for the term of the deposit.

The custodian shall accept transaction instructions only from those persons who have been duly authorized by the Town Financial Administrator and which authorization has been provided, in writing, to the custodian. No withdrawal of securities, in whole or in part, shall be made from safekeeping, shall be permitted unless authorized in writing by such a duly authorized person.

The custodian shall provide the Town Financial Administrator or designee with safekeeping receipts that provide detailed information on the securities held by the custodian. Security transactions between a broker/dealer and the custodian involving the purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction. Securities held as collateral shall be held free and clear of any liens.

XIX. INVESTMENT POLICY REVIEW AND ADOPTION

The investment policy shall be adopted by resolution. The Town Financial Administrator will review the policy annually for modifications and make recommendations to the Town Council. The Town Council shall approve any necessary modifications.

Attachment A
Investment Pool/Fund Questionnaire

General Fund/Pool Information:

1. Does the fund/pool attempt to maintain a stable net asset value or floating net asset value?
2. How is interest distributed, and how are gains and losses treated?
3. How often are statements and portfolio holdings distributed?
4. Is the fund/pool eligible for bond proceeds and/or will it accept such proceeds?

Oversight:

1. What is the fund/pool ratings by the Nationally Recognized Statistical Rating Organizations such as S&P, Moody's, Fitch, Kroll, etc.?
2. What are the eligible investment securities? Is there a written statement of investment policy and objectives?
3. How are the securities safeguarded (including the settlement processes)? How often are the securities priced? How often is the fund/pool audited?
4. Is there any additional oversight outside of the Board of Trustees?

Fund/Pool Statistics:

1. What is the current sector allocation of the fund/pool?
2. What is the fee schedule, and how and when is it assessed?

Liquidity:

1. Does the fund/pool follow GASB 79? (Statement 79 - Certain External Investment Pools & Pool Participants, June 15, 2015).
2. Does the fund/pool have any liquidity fees? If so, describe the terms.
3. Does the fund/pool have redemption gates? If so, describe them.

Investor Requirements:

1. Who may invest in the program, how often, and what size deposits and withdrawals are allowed?
2. Is there a limit regarding investor concentration? If so, what is it?



Town of Southwest Ranches – Investment Policy
Council Adoption: January XX, 20XX – Res. No. 2025-XXX

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Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL
33330-2628
(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Steve Breitreuz, Mayor
Bob Hartmann, Vice Mayor
Jim Allbritton, Council Member
Gary Jablonski, Council Member
David S. Kuczenski, Esq., Council Member

Russell C. Muniz, MBA, MPA, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Debra M. Ruesga, Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitreuz and Town Council
VIA: Russell C. Muñiz, Town Administrator
FROM: Debra Ruesga, Town Clerk
DATE: 2/13/2025
SUBJECT: Toshiba Copier Lease Agreement

Recommendation

Town Council consideration for a motion to approve the resolution.

Unanimous Vote of the Town Council Required?

No

Strategic Priorities

- A. Sound Governance
- B. Enhanced Resource Management

Background

The Town has a lease agreement with Toshiba America Business Solutions, Inc. to lease three copiers that was approved on June 10, 2021 via Resolution 2021-058. The lease expired in August 2024, and since then, the Town has been leasing the machines on a month-to-month basis.

The Town is desirous of leasing three new copier/printer/scanners to perform copying, printing, and scanning as needed to conduct normal business operations. Town Staff has reviewed operating costs and based on comparative National Association of State Procurement Officials (NASPO) pricing, technical specifications and performance efficiencies offered, staff determined that the solution provided by Toshiba America Business Solutions, Inc. is the best choice overall for meeting Town Staff needs as outlined above.

Fiscal Impact/Analysis

The monthly fixed lease payments for all three machines will total \$606.00 per month (\$7,272.00 annually) which represents a \$7.21 per month **decrease** from what was approved in 2021 (\$613.21). Furthermore, the cost for color copies (variable cost depending on copy volume) has not increased.

Staff Contact:

Debra Ruesga, Town Clerk
Emil Lopez, Town Financial Administrator
Christina Semeraro, Procurement Officer

ATTACHMENTS:

Description	Upload Date	Type
Resolution - TA Approved	2/7/2025	Resolution
Exhibit "A"	2/6/2025	Exhibit
Exhibit "B"	2/6/2025	Exhibit
Exhibit "C"	2/6/2025	Exhibit

RESOLUTION NO. 2025-XXX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A LEASE AGREEMENT AND A MAINTENANCE CONTRACT WITH TOSHIBA AMERICA BUSINESS SOLUTIONS, INC. FOR THREE (3) COPIER/PRINTER/SCANNERS; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, all departments of the Town rely on photocopiers to make copies, prints and scans of documents in the course of carrying out Town business; and

WHEREAS, currently the Town has a lease agreement with Toshiba America Business Solutions, Inc. to lease three copiers that was approved on June 10, 2021 pursuant to Resolution 2021-058. The lease expired in August 2024, and since then, the Town has been leasing the machines on a month-to-month basis; and

WHEREAS, the Town is desirous of leasing three new copier/printer/scanners to perform copying, printing, and scanning as needed to conduct normal business operations; and

WHEREAS, it is in the best interest of the Town to also enter into a Maintenance Contract with Toshiba America Business Solutions, Inc. for the proper maintenance and servicing of the three (3) copier/ printer/scanners; and

WHEREAS, after reviewing the operating costs and based on comparative National Association of State Procurement Officials (NASPO) pricing, technical specifications and performance efficiencies offered, Town Staff has determined that the products offered by Toshiba America Business Solutions, Inc. will satisfy the Town's needs.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

SECTION 1. ADOPTION OF RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The Town Council hereby approves the leasing of three (3) copier/ printer/scanners, pursuant to a lease agreement with Toshiba America Business Solutions, Inc. in substantially the form attached hereto as Exhibit "A" (the "Lease Agreement"), with such changes, insertions and omissions as may be necessary to effectuate the intent of this Resolution.

SECTION 3. The Town Council hereby approves the Lease and Maintenance Contract for the maintenance and servicing of three (3) copier/ printer/scanners, in substantially the form attached hereto as Exhibit "B" (the "Lease and Maintenance Order Form"), with such changes, insertions and omissions as may be necessary to effectuate the intent of this Resolution.

SECTION 4. The Mayor or Vice Mayor and the Town Administrator, as attested by the Town Clerk and approved as to legal form and correctness by the Town Attorney, are hereby authorized and directed to enter into the Lease Agreement and Maintenance Contract with Toshiba America Business Solutions, Inc. for three (3) copier/printer/scanners.

SECTION 5. SAVINGS CLAUSE. If any section, paragraph, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unenforceable, such decision shall not affect the validity of the remaining sections, paragraphs, sentences, clauses or phrase of this Resolution.

SECTION 6. CONFLICTS. All resolutions or parts thereof which conflict herewith are, to the extent of such conflict, superseded and repealed.

SECTION 7. EFFECTIVE DATE. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 13th day of February, 2025, on a motion by _____, and seconded by _____.

[SIGNATURES ON NEXT PAGE]

Breitkreuz ___
Hartmann ___
Allbritton ___
Jablonski ___
Kuczenski ___

Ayes ___
Nays ___
Absent ___
Abstaining ___

ATTEST:

Steve Breitkreuz, Mayor

Debra Ruesga, Town Clerk

Approved as to legal Form and Correctness

Keith M. Poliakoff, J.D., Town Attorney
1001.016.2025

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ATTACHMENT 1 – TOSHIBA LEASE AGREEMENT TERMS AND CONDITIONS

AGREEMENT FOR LEASE OF EQUIPMENT

a Contract Between

“Lessee”

Town of Southwest Ranches, 13400 Griffin Road, Southwest Ranches, FL 33330

and

Toshiba America Business Solutions, Inc.

WHEREAS, Lessee is authorized to lease under the NASPO-ValuePoint Master Agreement (“Master Agreement”) and the State of Florida Participating Addendum thereto; and

WHEREAS, it is deemed that the lease of this equipment is both necessary and for the good of Lessee;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **LEASE TERM.** This Agreement shall be effective from the date of delivery and acceptance of Leased Equipment for the term set forth on the (i) Attachment 6, Toshiba Lease Order Form and if applicable Attachment 7, Toshiba Lease Order Form Schedule B (collectively an “Order Form”); or (ii) the Lessee’s Purchase Order (PO) to which this Agreement is attached, unless sooner terminated by either party as set forth in Section 6 of this Agreement.

2. **DEFINITIONS.** “**Lease Term**” means the term of this Agreement as set forth in Section 1. “**Leased Equipment**” means the (i) equipment described in the Order Form, attached to this Agreement, and which is incorporated herein; (ii) any replacement equipment provided by Lessor; and (iii) any additional equipment described under subsequent Order Forms agreed to during the term of this Agreement. “**Lessor**” means Toshiba America Business Solutions, Inc. or, if applicable, its permitted assignee.

3. **CONSIDERATION (RENT).** The parties agree that for the Lease Term, Lessor leases to Lessee the equipment described in, and for the lease payments set forth in, the Order Form, excluding meter charges, late fees and applicable taxes. Except as provided in section 6(c), lessee’s payment obligations are absolute and unconditional and are not subject to cancellation, reduction or setoff for any reason whatsoever. Lessee does not agree to reimburse Lessor for expenses, unless otherwise specified in the incorporated documents. Any intervening end to a fiscal period shall be deemed a contract renewal (not changing the overall Agreement term) or a termination as the results of legislative appropriation may be required.

4. **POSSESSION, TITLE AND RETURN.**

(a) Lessee shall have possession of the Leased Equipment for the Lease Term, unless this Agreement is earlier terminated in accordance with Section 6 below and shall keep such Leased Equipment at the location specified in the Order Form or such other location as Lessor may agree in writing.

(b) Lessor covenants that it has good title to the Leased Equipment, except any intangible property or associated services such as periodic software licenses and prepaid database subscription rights included in the Leased Equipment, if any. If the Order Form indicates that this lease is a Capital (i.e. \$1 Buyout) Lease and if this Agreement is deemed to be a secured transaction, Lessee grants Lessor a first priority security interest in the Leased Equipment to secure all of Lessee’s obligations under this Agreement, agrees not to permit any other liens on the Leased Equipment, and shall own such Leased Equipment as of the acceptance date and Lessee authorizes Lessor to record a UCC-1 to reflect such interest. At the end of the Lease Term, if Lessee is not in default, Lessor will release any security interest it may have in the Leased Equipment subject to such Capital Lease, which will be retained by Lessee.

(c) At the expiration of the term of this Agreement and provided that the Order Form does not indicate this lease is a Capital Lease, upon Lessee’s written request, Lessor shall remove the hard drive from the applicable Device and provide the Lessee with custody of the hard drive before the Device is removed from the Lessor’s location. Lessor may charge the Purchasing Entity a fee if the Purchasing Entity elects to keep the hard drive in their possession. The Lessee shall then be responsible for securely erasing or destroying the hard drive. If Lessee is not in breach of

this Agreement, all costs of removing and transporting the Leased Equipment at the expiration of the Lease Term shall be the responsibility of Lessor.

(d) Risk of loss of the Leased Equipment rests with Lessor until the Leased Equipment is delivered to the Lessee's designated location, at which time risk of loss passes to Lessee.

(e) If the Order Form indicates this lease is a Fair Market Value Lease, at the end of the Lease Term and upon 30 days' prior written notice to Lessor, Lessee may purchase all, but not less than all, of the Leased Equipment AS-IS and WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE, for the Fair Market Value, plus applicable sales and other taxes, if any.

5. TAXES. Lessee agrees to pay all fees, assessments, taxes and charges governmentally imposed upon Lessor's purchase, ownership, possession, leasing, renting, operation, control or use of the Leased Equipment.

6. TERMINATION.

(a) Termination by Mutual Consent. Any discretionary or vested right of renewal notwithstanding, this Agreement may be terminated upon written notice by mutual consent of both parties.

(b) Termination by Lessee without Cause. This lease may be bought out and all Leased Equipment returned to Lessor, although fair market value leases, operational leases, non-cancelable rentals and capital leases are subject to a termination charge. The termination charge is equal to the balance of unpaid lease payments and other amounts due hereunder (including any current or past due amounts) for leases and with regard to service or maintenance obligations, may not exceed more than four (4) month service and supply base or 25% of the remaining term, whichever is less.

(c) Termination for Non appropriation. The continuation of this Agreement beyond the current fiscal period is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by Lessee's legislature, governing body and/or federal sources. If for any reason Lessee's funding is not appropriated or is withdrawn, limited, or impaired, Lessee may terminate this Agreement, and Lessor waives any and all claim(s) for damages, effective as of the end of the fiscal period in which written notice of such non-appropriation, withdrawal, limitation or impairment is provided by Lessee to Lessor. If Lessee terminates this Agreement because of non-appropriation, withdrawal, limitation or impairment of funds, Lessee will not purchase, lease or rent replacement equipment performing the same functions as the Leased Equipment during the subsequent fiscal period.

(d) Termination for Default or Breach. A default or breach may be declared with or without termination. This Agreement may be terminated by either party upon written notice to the other party for any material breach or default by the other party of any terms, conditions, covenants, or obligations of this Agreement. Notice of termination for breach or default is effective 30 days following service of notice, or upon any subsequent date specified in the notice of termination. Termination by Lessor due to Lessee's material breach or default will be subject to a termination charge, which is equal to the balance of lease payments and other amounts due hereunder (including any current or past due amounts) for leases and may not exceed more than four (4) month service and supply base or 25% of the remaining term, whichever is less, for service and maintenance charges.

7. INSURANCE. At Lessor's request, Lessee shall provide to Lessor proof that the Leased Equipment is covered for the value thereof against property loss or damage while in Lessee's possession by Lessee's program of self-insurance (if approved by Lessor and Lessor's assignee, if any) or a policy of property insurance from a qualified insurer.

8. LOSS OR DAMAGE. If any item of Leased Equipment is lost, stolen or damaged, Lessee will, at Lessee's option and cost, either: (a) repair the item or replace the item with a comparable item reasonably acceptable to Lessor; or (b) pay Lessor the sum of: (i) all past due and current lease payments and other amounts due under this Agreement; (ii) the present value of all remaining lease payments for the effected item(s) of Leased Equipment, discounted at the rate of 6% per annum; and (iii) if this lease is not a Capital Lease, the Fair Market Value of the effected item(s) of Leased Equipment. Upon Lessee's payment to Lessor under clause (b) above, Lessor will then transfer to Lessee all of Lessor's right, title and interest in the effected item(s) of Leased Product AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE. "Fair Market Value" means the item's fair market value at the end of the Lease Term, assuming good order and condition (except for ordinary wear and tear from normal use), as estimated by Lessor. No such loss or damage shall relieve Lessee of payment obligations hereunder.

9. WARRANTY AND MAINTENANCE OF EQUIPMENT; WARRANTY DISCLAIMER. All services performed under this Agreement shall be of workmanlike quality, consistent with the standards of the trade, profession or

industry. Lessor shall assign to Lessee all manufacturer's warranties on the Leased Equipment, which shall be not less than a full six months' warranty. Lessor shall be responsible for ongoing service and maintenance of the Leased Equipment for the duration of the Lease Term. EXCEPT AS OTHERWISE STATED HEREIN, LESSOR MAKES NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE LEASED EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE LEASED EQUIPMENT IS MERCHANTABLE. Lessee acknowledges that none of Lessor or their representatives are agents of any assignee and none of them are authorized to modify the terms of this lease or on any Schedule. No representation or warranty of Lessor with respect to the Leased Equipment will bind any assignee, nor will any breach thereof relieve Lessee of any of its obligations hereunder. THIS LEASE AGREEMENT AND EACH SCHEDULE CONSTITUTES A "FINANCE LEASE" AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE (the "UCC"). Lessee agree that any manufacturer or Lessor warranty or service agreement is a separate and independent obligation of Lessor to Lessee, that no assignee of the Lessor shall have any obligation to Lessee with respect to such warranty or service agreement and that Lessee's obligations under this Agreement are not subject to setoff, withholding, reduction, counterclaim or defense for any reason whatsoever including, without limitation, any claim Lessee may have against Supplier.

10. **LESSOR REMEDIES.** If Lessee defaults, Lessor may do one or more of the following: (a) recover from Lessee, the sum of: (i) all past due and current lease payments and other amounts due under this Agreement; (ii) the present value of all remaining lease payments, discounted at the rate of 3% per annum; and (iii) if this lease is not a \$1 Buyout Lease, the Fair Market Value of the effected item(s) of Leased Equipment; (b) require Lessee to make the Leased Equipment available to Lessor for pickup at Lessee's premises (and Lessee shall be responsible for removing all data as provided in Section 4(c), charge Lessee for expenses incurred in connection with the enforcement of Lessor's remedies. If Lessor picks up the Leased Equipment, Lessor may sell, release or otherwise dispose of the Leased Equipment and apply the proceeds, less reasonable selling and administrative expenses, to the amounts due by Lessee and Lessee shall be responsible for any balance deficiency after such application. These remedies are cumulative, in addition to any other remedies provided by law, and may be exercised concurrently or separately. Any failure or delay by Lessor to exercise any right shall not operate as a waiver of any right. **LESSOR SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL OR SPECIAL DAMAGES.**

11. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement. Any services performed by Lessor before this Agreement is effective or after it ceases to be effective are performed at the sole risk of Lessor.

12. **LESSEE REPRESENTATIONS.** Lessee represents that: (a) this Agreement and any documents required to be delivered in connection with this Agreement (collectively, the "Documents") have been duly authorized by Lessee in accordance with all applicable laws, rules, ordinances and regulations; (b) the Documents are valid, legal, binding agreements, enforceable in accordance with their terms and the person(s) signing the Documents, if applicable, have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signatures; (c) the Leased Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of Lessee's authority and shall be used during the Lease Term only by Lessee to perform such function; (d) Lessee intends to use the Leased Equipment for the entire Lease Term and shall take all necessary action to include in Lessee's annual budget any funds required to fulfill Lessee's obligations each fiscal period during the Lease Term; (e) Lessee has complied fully with all applicable law governing open meetings, public bidding and appropriations, required in connection with this lease and the debt under applicable state law; (f) unless this lease is a Capital Lease, Lessee's obligations to remit Lease Payments constitutes a current expense and not a debt under applicable state law; (g) this Agreement is binding on Lessee and Lessee's successors and assigns; and (h) all financial information Lessee has provided is true and a reasonable representation of Lessee's financial condition.

13. **ASSIGNMENT.** Lessee may not assign or dispose of any rights or obligations under this Agreement or sublease the Leased Equipment without Lessor's prior written consent. Notwithstanding anything in the NASPO ValuePoint Master Agreement and/or the Participating Addendum to the contrary, Lessor may assign all or any portion of this Agreement or its interest in the Leased Equipment; provided that service obligations on the Leased Equipment shall remain with Toshiba America Business Solutions, Inc. and expressly not with Lessor's assignee and must conform to the terms of the NASPO ValuePoint Master Agreement and the State of Florida Participating Addendum. Lessor's assignee shall have Lessor's rights under this Agreement, but none of Lessor's obligations. Lessee agrees not to assert any claims, defenses or offsets it may have against Lessor against such assignee.

14. AGREEMENT AND MODIFICATION. This Agreement is made pursuant to the NASPO ValuePoint Master Agreement identified above, and the State of Florida Participating Addendum to that Master Agreement, the terms of which are incorporated herein by reference. In the event of conflict between the Master Agreement or the State of Florida Participating Addendum and this Agreement, the Master Agreement and the Participating Addendum shall govern and control. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties, unless the same is in writing and signed by the respective parties hereto.

15. TIME PRICE. If the Toshiba Lease Order Form and Schedule indicates the lease is a Capital Lease, Lessee understands that the Leased Equipment may be purchased for cash (the "Product Cost") or purchased pursuant to this Agreement for an amount of each Lease Payment times the number of Lease Payments, less maintenance, as set forth on the NASPO Lease Order Form and Schedule and this Agreement, plus the \$1 Purchase Option amount stated on the NASPO Lease Order Form and Schedule, and by signing this Agreement, Lessee has chosen to purchase the Leased Equipment for that price. The Product Cost may be determined by dividing the Lease Payment by the lease rate factor set forth on the NASPO Lease Order Form and Schedule. Each Lease Payment under a Capital Lease includes a part of Lessor's investment in the Product Cost and a return on Lessor's investment in the Capital Lease. The total return on Lessor's investment (the total finance charge) is determined by deducting the Product Cost (as determined above) from the Time Price. The difference so determined is the return to Lessor on its investment (the total finance charge). The rate of return (finance rate) may be determined by applying to the Product Cost, the rate that will amortize the Product Cost down to the Purchase Option amount by applying as payments, the Lease Payments. For purposes of that amortization, each Lease Payment will be considered received on the date it is required to be paid under this Agreement.

16. GOVERNING LAW, JURY TRIAL WAIVER. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Florida and County of Broward, without giving effect to any principle of conflict of laws that would require the application of the law of any other jurisdiction. BOTH PARTIES AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL WITH RESPECT TO THIS AGREEMENT AND THE LEASED EQUIPMENT.

17. NOTICE. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally in hand, (b) delivered by telephone, facsimile or email with simultaneous regular mail, or (c) mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above or such other address as the other party may have provided written notice of in accordance with this Section 17. For purposes of computing times from service of notice, service of notice by delivery in hand shall be effective on the date of delivery; notices that are mailed shall be effective on the third calendar day following the date of mailing.

18. RESERVED.

19. ELECTRONIC DOCUMENTATION. This Agreement may be executed in counterparts and signed by the parties manually or electronically. The executed counterpart that has Lessor's original signature and/or is in Lessor's possession shall constitute chattel paper as that term is defined in the UCC and shall constitute the original agreement for all purposes. If Lessee transmits this Agreement to Lessor by facsimile or other electronic transmission, the transmitted copy shall be binding upon the parties. Neither party may raise as a defense to the enforcement of this Agreement that it was signed or transmitted electronically.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby.

LESSOR:
**Toshiba America Business Solutions,
Inc.**

LESSEE:
Town of Southwest Ranches

By: Matthew Barnes

By: _____

Name: Matthew Barnes

Name: _____

Title: South Region President

Title: _____

Date: January 24, 2025

Date: _____

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NASPO LEASE FOR EQUIPMENT AND MAINTENANCE ORDER FORM

Agreement #

LESSEE - BILLING CONTACT INFORMATION (Separate Order Form must be completed for each billing locations.)			
Lessee Legal Name: TOWN OF SOUTHWEST RANCHES		Department Name:	
Street Address I 13400 GRIFFIN ROAD		Bldg./Room/Suite: TOWN CLERKS OFFICE	
City: SOUTHWEST RANCHES	State: FL	Zip 33330	Billing Contact Name: DEBRA M RUESGA
Bill-To Phone Number: 954-434-0008	Email: druesga@southwestranches.org	Fax Number: 954-434-1490	

LESSEE INSTALLATION LOCATION			
Lessee Legal Name: Town of Southwest Ranches		Department Name:	
Street Address I 13400 Griffin Road		Bldg./Room/Suite:	
City: Southwest Ranches	State: FL	Zip:33330	Contact Name:
Phone Number:	Email:	Fax Number:	

EQUIPMENT LEASE WITH SEPARATE MAINTENANCE PLAN			
EQUIPMENT LEASE TYPE			LEASE TERM
<input checked="" type="checkbox"/> Fair Market Value <input type="checkbox"/> Capital Lease <input type="checkbox"/> Straight Lease			<input type="checkbox"/> 24 Mo <input checked="" type="checkbox"/> 36 Mo <input type="checkbox"/> 48 Mo <input type="checkbox"/> 60 Mo

ITEM DESCRIPTION (If insufficient space, use Schedule A to this Lease Order form and enter below "See Order Form Schedule")	EQUIPMENT LEASE		MAINTENANCE & SERVICES (M&S) PLAN					Include Staples	
	EQUIPMENT LEASE % or RATE- FOR \$OUT LEASES ONLY	EQUIPMENT LEASE PAYMENT	ZERO BASE B&W CPC	ZERO BASE COLOR CPC	MAINT. OPTION NUMBER 1, 2, 3	MONTHLY VOLUME (BW)	MONTHLY BASE CHARGE (BW)	BW OVERAGE RATE	COLOR OVERAGE RATE
Toshiba e6527ACT - TWO		\$523.00	.0054	.0325			\$		
Toshiba e3528A - ONE		\$83.00	.0074				\$		
Power Filter - THREE							\$		
Staple Finisher - THREE							\$		
Hole Punch Unit - TWO							\$		
Fax Unit - ONE							\$		
Stand - ONE							\$		
Rail - TWO							\$		

Sum of Monthly Equipment Lease Payments:	\$606.00	Sum of Monthly Base Charges:	\$
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TOTAL MONTHLY PAYMENT: Equipment Lease Payment + Monthly Base Charge (If Applicable) \$606.00		Personal Property Tax Required <input type="checkbox"/>
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NASPO ADMIN FEE RATE: 0.25% STATE ADMIN FEE RATE (If Applicable):

Special Instructions/Additional Information (e.g. equipment models upgraded; Buyout details; etc.):

TERM & PAYMENT SCHEDULE (All Payments are exclusive of sales and use tax)

Sales/Use Tax Exempt <input type="checkbox"/> Yes <input type="checkbox"/> No	Tax-Exempt No. [Attach Tax Exemption]	PO Issued <input type="checkbox"/> yes <input type="checkbox"/> No
		PO #

Payment Cycle: Monthly Billing Document Fee: \$75.00 included in the 1st invoice

THIS ORDER FORM INCORPORATES ALL OF THE TERMS AND CONDITIONS OF THE LEASE AGREEMENT

LESSOR: Toshiba America Business Solutions, Inc.	Title:	Date:
SIGNATURE:		

LESSEE: Town of Southwest Ranches	Title:	Date:
SIGNATURE		

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TOSHIBA**MAINTENANCE AGREEMENT**
Attachment 3**Administered by the State of Colorado #RFP-NP-23-001**

These maintenance terms are pursuant to a Participating Addendum under NASPO ValuePoint Master Agreement administered by the State of Colorado #RFP-NP-23-001 (the "Master Agreement"). By accepting this Attachment, Customer agrees to purchase the services as set forth in the Maintenance Order Form. Contractor agrees to provide parts, labor, ink, toner, and toner collection containers (the "Maintenance Services") for the equipment listed in Attachment 6, Toshiba Lease Order Form in accordance with the terms and conditions of the Master Agreement and the Maintenance Agreement Terms below.

MAINTENANCE AGREEMENT TERMS

1. **TERM:** Each asset shall be annually renewable on each yearly anniversary date for an additional one (1) year period. Contractor shall notify Customer in writing of any such pending anniversary date no later than ninety (90) days prior to such date, and Customer shall have until thirty (30) days prior to such date to notify Contractor in writing that it wishes to renew the term for an additional year in order for such renewal to take effect.
2. For each piece of equipment under this Maintenance Agreement there will be a Start Date & Start Meter. Service for each piece of equipment will be provided from the Start Date & Start Meter until this Maintenance Agreement is terminated or the equipment is withdrawn from service.
3. **REMOVAL FROM SERVICE.** Customer may withdraw individual equipment by providing thirty (30) day written notice prior to the Renewal Date. Customer is responsible for all remaining Minimum Payments if Customer is in default or if equipment is withdrawn prior to Renewal Date.
4. **INVOICING CHARGES.** Customer will pay the charges set forth in the Toshiba Lease Order Form. The first Minimum Payment is due upon receipt of an invoice. Thereafter, Minimum Payments will be due on the same date each month during the Term of this Maintenance Agreement whether or not Customer receives an invoice. Customer's obligation to pay the Minimum Payment is unconditional and is not subject to any reduction, set-off, defense, or counterclaim for any reason whatsoever. Excess click charges or Overage Charges, as applicable; will be invoiced monthly for the period selected on the Maintenance Order Form.
5. If any part of a payment is not made by the Customer when due, Customer agrees to pay Contractor a Late Charge pursuant to the terms of the Master Agreement.
6. Contractor may estimate the number of clicks used if requested Meter Readings are not received before a new billing period begins. Contractor will adjust the estimated charge for overage clicks upon receipt of actual Meter Readings. Notwithstanding any adjustment, the Customer will never pay less than the Minimum Payment. Customer will provide meter readings via an automated website.
7. **CONSUMABLE SUPPLIES.** All supplies delivered as part of this Maintenance Agreement remain the property of Contractor until and unless they are consumed by the equipment in the performance of this Agreement. Any supplies not consumed as specified and not surrendered to Contractor upon expiration or termination of the Maintenance Services for an asset will be invoiced to the Customer at Contractor's then current Master Agreement prices. Customer agrees to provide insurance coverage for supplies in case of loss under any circumstances. Notwithstanding the foregoing, the risk of loss of the consumable supplies shall be transferred from Contractor to Customer if such consumable supplies are stored at Customer's facility.
8. **TAXES.** Unless Tax Exempt (as evidenced by certificate or in the case of exempt sales to federal, state, and local government entities a seller may also document the exemption by retaining a copy of a government issued purchase order, government check or voucher in place of the exemption certificate). In addition to the charges due under this Maintenance Agreement, the Customer agrees to pay amounts equal to any taxes resulting from this Maintenance Agreement, or any activities hereunder, exclusive of taxes based upon net income.
9. **INSTALLATION AND ACCESS TO EQUIPMENT.** Customer agrees to provide adequate space, environment and appropriated electrical requirements including, if required, a dedicated 120 volt or 220 volt electrical line, as published in the Operator and Service Manuals for the operation and maintenance of the equipment. If Contractor has installed a power filter/surge protector on the equipment, it must at all times remain continuously installed. If it is removed Customer agrees to purchase a replacement from Contractor immediately. Contractor shall have full and free access to the equipment to provide service thereon.

- 10.** If persons other than Contractor representatives install conversions, feature additions, accessories or perform service on equipment and as a result further repair by Contractor is required, such repairs shall be made at Contractor's applicable Time and Material rates and terms then in effect, per the Master Agreement pricing. If such additional repair is required, Contractor may immediately withdraw the equipment from this Maintenance Agreement.
- 11. KEY OPERATOR - END-USER TRAINING.** Customer agrees to designate a Key Operator for training on the use, applications and features of the equipment. The Key Operator will be responsible for normal Key Operator activities as detailed in the Operations Manual and for training additional end-user. If the Key Operator assignment changes, Customer agrees to designate a new Key Operator immediately. Contractor agrees to provide training for the designated Key Operator and to provide initial training for end-users on the use, applications and features of the equipment. Additional training requested by Customer will be at Contractor Master Agreement hourly rates.
- 12. EXCLUSIONS.** Service under this Maintenance Agreement does not include:
- a. Furnishing paper, staples (unless purchased by the Customer), replacement print heads, batteries, ribbons, media, periodic maintenance on thermal printers or any of the following;
 - b. Service of equipment if moved outside of Contractor's designated service area;
 - c. Repair of damage or increase in service time caused by accident, misuse, negligence, abuse or disaster;
 - d. Service of accessories, attachments or click control devices other than those of the same manufacturer as the equipment;
 - e. Painting or refinishing of the equipment;
 - f. Making specification changes;
 - g. Performing key operator functions as described in the operator manual;
 - h. Moving equipment, repair of damage or increase in service time caused by the use of the equipment for other than the ordinary use for which designed;
 - i. Repair of damage caused by electrical surges or lightning strikes, if equipment is connected to a Contractor supplied power filter/surge protector repairs will be included;
 - j. Repair of damage or increase in service time caused by failure to continually provide a suitable installation environment as defined by the manufacturer, with all the facilities prescribed by Contractor including, but not limited to, adequate space, electrical power, air conditioning or humidity control
 - k. Repair of equipment that has been designated as obsolete by the manufacturer and genuine OEM parts are no longer available.
 - l. Repair of damage or increase of service time caused by Customer's use of media outside the specifications as described in the operator manual.
- 13.** This Maintenance Agreement is not assignable, its right, duties and obligations may not be assigned or transferred by the Customer without the prior written consent of Contractor. Any attempt to assign or transfer any of the rights, duties or obligations of this Maintenance Agreement without such consent is void. Contractor's service provided outside the scope of this Maintenance Agreement will be furnished at Contractor's applicable time and material rates and terms then in effect. Contractor is not responsible for failure to render service due to causes beyond its control.